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JAN 13 2004

OFFICE OF PETITIONS

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PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

R-477

First named inventor: Keith D. ALLENApplication No.: 09/904,180Art Unit: 1636Filed: July 11, 2001Examiner: Sullivan, Daniel M.Title: Transgenic Mice Containing Stc1n Homolog Protease
Inhibitor Gene Disruptions

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.*(Not Required)*☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of Amendment Accompanying RCE (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

January 5, 2003
Date

Telephone Number: (650) 569-5100

Kelly Quast
Signature

Kelly L. Quast Reg No. 52,141
Typed or printed name

1031 Bing Street
Address

San Carlos CA 95051
Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

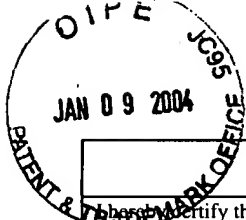
☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

01-05-04
Date

Don Mixon
Signature

DON MIXON
Type or printed name of person signing certificate



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents, Washington, D.C. 20231.

Typed or Printed Name Don Mixon

Signature

Date

January 5, 2004

RECEIVED**JAN 13 2004****OFFICE OF PETITIONS****RENEWED PETITION TO REVIVE
UNDER 37 C.F.R. §1.137(b)**

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number

09/904,180

Confirmation Number

1187

Filing Date

July 11, 2001

First Named Inventor

Keith D. Allen

Examiner

Daniel M. Sullivan

Group Art

1636

Title

Transgenic Mice Containing Stefin
Homolog Protease Inhibitor Gene
Disruptions

Attorney Docket No.

R-477

Sir:

The above referenced application has unintentionally fallen abandoned due to the inadvertent failure to timely file a proper reply to the final Office Action mailed January 14, 2003. A reply was filed April 14, 2003, which was not considered by the Examiner to place the application in condition for allowance, and therefore was not entered (see Advisory Action mailed May 7, 2003). Applicant unintentionally failed to file an amendment responsive to the Advisory Action within the six month statutory period ending July 14, 2003. Applicant initially petitioned to revive the application on October 17, 2003, which petition included an amendment believed to place the claims in condition for allowance. However, it was determined by the Examiner that the response filed October 17, 2003 did not place the claims in condition for allowance. Therefore the amendment was not entered, and the petition to revive was dismissed. As a result, Applicant is hereby filing a Renewed Petition to Revive the application.

Attached herewith is a renewed Petition for Revival of an Unintentionally Abandoned Application under 37 C.F.R. § 1.137(b). Applicant hereby states that the entire delay in properly responding to the outstanding Office Action(s) was unintentional. Applicant further submits herewith a Request for Continued Examination, and an Amendment in response to the Office Action dated January 14, 2003, attached herewith.

Application No. 09/904,180
Deltagen Docket No. R-477

Applicant requests entry and consideration of the amendments and remarks set forth in the enclosed Amendment and reinstatement of the application to active status. In view of the amendments to the claims and the remarks set forth below, reconsideration and allowance are respectfully requested.

It is believed that all required submissions are included herewith in order to renew the Petition to Revive and revive the instant application under 37 C.F.R. § 1.137(b), which action is respectfully requested.

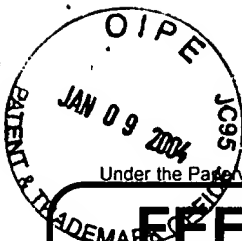
The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1271 under order No. R-477.

Respectfully submitted,
DELTAGEN, INC.

Date: January 5, 2003

By: Kelly L. Quast
Kelly L. Quast Reg. No. 52,141

DELTAGEN, INC.
1031 Bing Street
San Carlos, CA 94070
Telephone: (650) 569-5100
Facsimile: (650) 569-5280



FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 385.00)

Complete if Known

Application Number 09/904,180
Filing Date July 11, 2001
First Named Inventor Keith D. Allen
Examiner Name Daniel M. Sullivan
Art Unit 1636
Attorney Docket No. R-477

RECEIVED

JAN 13 2004

OFFICE OF PETITIONS

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 50-1271

Deposit Account Name Deltagen, Inc.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	385.00
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 385.00)

SUBMITTED BY

Name (Print/Type) Kelly L. Quast

Registration No. 52,141
(Attorney/Agent)

(Complete (if applicable))

Telephone 650-569-5100

Signature

Kelly L. Quast

Date 01/05/04

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,180	07/11/2001	Keith D. Allen	R-477	1187

7590 10/16/2003
DELTAGEN, INC.
1003 Hamilton Avenue
Menlo Park, CA 94025

EXAMINER

SULLIVAN, DANIEL M

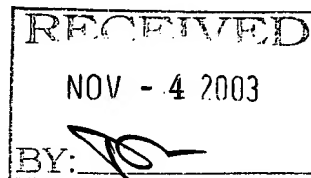
ART UNIT	PAPER NUMBER
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1636

18

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.





Notice of Abandonment

Application No.

09/904,180

Examiner

Daniel M Sullivan

Applicant(s)

ALLEN, KEITH D.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 07 May 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Abandonment of the Application was confirmed by Kelly Quast on 14 September 2003.

DAVID GUZO
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 22

DELTAGEN, INC.
1003 HAMILTON AVENUE
MENLO PARK, CA 94025

COPY MAILED

NOV 26 2003

OFFICE OF PETITIONS

In re Application of
Allen, Keith D.
Application No. 09/904,180
Filed: July 11, 2001
Attorney Docket No. R-477

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed January 14, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 15, 2003. A Notice of Abandonment was mailed October 16, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,¹
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks item (1). The amendment submitted with the instant petition on October 24, 2003, failed to place the application in condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. An advisory action from the examiner is enclosed.

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

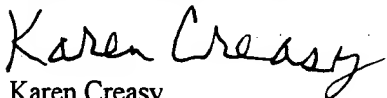
By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Advisory Action

cc: Kelly L. Quast
DELTAGEN, INC.
1031 Bing Street
San Carlos, CA 94070

JAN 09 2004

Advisory Action

TRADEMARK OFFICE

Application No.

09/904,180

Applicant(s)

ALLEN, KEITH D.

Examiner

Daniel M Sullivan

Art Unit

1636

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: See Continuation Sheet.
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 1,2 and 4 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Anne-Marie Falk
ANNE-MARIE FALK, PH.D.
PRIMARY EXAMINER

Continuation of 2. NOTE: In the proposed amendment to claim 3, the word "construct" is mistakenly deleted from the first line such that the claim is directed to "a method of producing a targeting", which raises a new ground for objection, or rejection of the claim under 35 U.S.C. §112, second paragraph.

Continuation of 5. does NOT place the application in condition for allowance because: The proposed amendments to not fully address the rejection under 35 U.S.C. §112, first paragraph, of claims 5, 8, 9, 10, 11 and 20-25 as lacking enablement for the full scope of the claimed subject matter. In the remarks that accompany the amendments, Applicant asserts that because the mice and cells of the claims are limited to comprising a homozygous disruption of the stefin homolog gene comprising SEQ ID NO: 1 and exhibiting increased activity or a neuropsychological disorder, the claims are fully enabled by the specification (page 7, fourth full paragraph). However, the previous Office Actions clearly indicate that the specification is enabling only for "a homozygous KNOCKOUT mouse comprising a disruption in the stefin homolog gene comprising the sequences set forth as SEQ ID NO: 1 and exhibiting phenotypic features such as HYPERACTIVITY, DECREASED PROPENSITY TO DESPAIR, SCHIZOPHRENIC BEHAVIOUR AND DECREASED PREPULSE INHIBITION as compared to wild type mice" (Office Action mailed 19 June 2002, paragraph bridging pages 3-4, emphasis added; see also the Office Action mailed 14 January 2003, page 3). In other words, the disruption of the stefin homolog gene must result in loss of expression. In contrast, the proposed claims 5, 8, 9, 10, 11 and 20-25 still encompass a transgenic mouse and cells comprising any disruption (i.e., insertion, deletion or substitution in any portion of the gene; 19 June Office Action, page 5, first full paragraph) and a transgenic mouse that exhibits any neuropsychological disorder. Thus, had the proposed amendments been entered, the scope of claims 5, 8, 9, 10, 11 and 20-25 would still encompass subject matter indicated in previous Office Actions to lack enablement.